

Message Text

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TO AMEMBASSY LONDON PRIORITY
INFO AMEMBASSY BUENOS AIRES
AMEMBASSY CANBERRA
AMEMBASSY BRUSSELS
AMEMBASSY SANTIAGO
AMEMBASSY PARIS
AMEMBASSY TOKYO
AMEMBASSY WELLINGTON
AMEMBASSY OSLO
AMEMBASSY PRETORIA
AMEMBASSY MOSCOW
AMCONSUL CAPE TOWN

C O N F I D E N T I A L STATE 141665

CAPE TOWN FOR EMBASSY

E.O. 11652: GDS

TAGS: TGEN, XV, UK

SUBJECT: ANTARCTIC TREATY: ADMISSION TO CONSULTATIVE
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STATUS

REF: LONDON 10004

1. THE FOLLOWING IS THE TEXT OF THE U.S. PROPOSAL: QUOTE

-- PROCEDURES FOR GIVING EFFECT TO THE RIGHT

-- CONFERRED BY ARTICLE IX(2) OF THE ANTARCTIC TREATY

THE ANTARCTIC TREATY CONSULTATIVE PARTIES RECALLED THAT ARTICLE IX(2) OF THE ANTARCTIC TREATY PROVIDES THAT A CONTRACTING PARTY NOT NAMED IN THE PREAMBLE SHALL BE ENTITLED TO APPOINT REPRESENTATIVES TO PARTICIPATE IN THE ANTARCTIC TREATY CONSULTATIVE MEETINGS DURING SUCH TIME AS THAT CONTRACTING PARTY DEMONSTRATES ITS INTEREST IN ANTARCTICA BY CONDUCTING SUBSTANTIAL SCIENTIFIC RESEARCH ACTIVITY THERE, SUCH AS THE ESTABLISHMENT OF A SCIENTIFIC STATION OR THE DISPATCH OF A SCIENTIFIC EXPEDITION. THEY FURTHER EXPRESSED THE CONVICTION THAT AGREED PROCEDURES FOR GIVING TIMELY EFFECT TO THE RIGHT CONFERRED BY ARTICLE IX(2) WILL PROMOTE THE SMOOTH FUNCTIONING OF THE CONSULTATIVE MEETINGS AND THE PRINCIPLES AND OBJECTIVES OF THE ANTARCTIC TREATY. THEREFORE, THE ANTARCTIC TREATY CONSULTATIVE PARTIES EXPRESSED THE UNANIMOUS VIEW THAT THE FOLLOWING SHOULD BE THE PROCEDURES TO BE FOLLOWED IN GIVING EFFECT TO THE RIGHT CONFERRED BY ARTICLE IX(2):

1. CONTRACTING PARTIES WHO HAVE ACCEDED TO THE ANTARCTIC TREATY AND WHO CONSIDER THAT THEY ARE UNDERTAKING SUBSTANTIAL SCIENTIFIC ACTIVITY IN ANTARCTICA, ARE INVITED TO COMMUNICATE TO THE HOST GOVERNMENT FOR THE NEXT ANTARCTIC TREATY CONSULTATIVE MEETING THEIR VIEWS RELATING TO THEIR STATUS UNDER ARTICLE IX OF THE ANTARCTIC TREATY, INCLUDING ADEQUATE DESCRIPTION OF SCIENTIFIC ACTIVITIES UNDERTAKEN.

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2. UPON RECEIPT OF SUCH A COMMUNICATION FROM A CONTRACTING PARTY WHO HAS ACCEDED TO THE ANTARCTIC TREATY, THE HOST GOVERNMENT FOR THE NEXT ANTARCTIC TREATY CONSULTATIVE MEETING SHALL PROMPTLY TRANSMIT, WITH THE ASSISTANCE OF THE DEPOSITARY GOVERNMENT AS APPROPRIATE, TO ALL OTHER CONSULTATIVE PARTIES THE INFORMATION CONTAINED IN SUCH COMMUNICATION.

3. THE CONSULTATIVE PARTIES, UPON RECEIPT OF THE INFORMATION REFERRED TO IN PARAGRAPH 2 ABOVE, SHALL PROMPTLY COMMUNICATE WITH EACH OTHER TO ENSURE EXPEDITIOUS CONSIDERATION OF THE MATTER.

4. UPON FORMATION OF A CONSENSUS OF THE CONSULTATIVE PARTIES, THE HOST GOVERNMENT FOR THE NEXT ANTARCTIC TREATY CONSULTATIVE MEETING SHALL INFORM THE CONTRACTING PARTY WHO HAS ACCEDED TO THE ANTARCTIC TREATY OF THAT VIEW.
END QUOTE.

2. FOLLOWING IS TEXT OF A STATEMENT GIVING THE RATIONALE
FOR THE U.S. PROPOSAL: QUOTE.

-- STATEMENT IN CONNECTION WITH
-- U.S. PROPOSAL ON PROCEDURES TO GIVE
-- EFFECT TO THE RIGHT CONFERRED BY
-- ARTICLE IX(2) OF THE ANTARCTIC TREATY

ARTICLE IX OF THE ANTARCTIC TREATY PROVIDES THAT
A CONTRACTING PARTY NOT NAMED IN THE PREAMBLE TO THE
TREATY SHALL BE ENTITLED TO APPOINT REPRESENTATIVES TO
PARTICIPATE IN THE ANTARCTIC TREATY CONSULTATIVE MEETINGS
DURING SUCH TIME AS THAT CONTRACTING PARTY DEMONSTRATES
ITS INTEREST IN ANTARCTICA BY CONDUCTING SUBSTANTIVE
SCIENTIFIC RESEARCH ACTIVITY THERE, SUCH AS THE ESTABLISH-
MENT OF A SCIENTIFIC STATION ON THE DISPATCH OF A
SCIENTIFIC EXPEDITION.
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CONSULTATIVE STATUS UNDER THE ANTARCTIC TREATY, THUS,
IS A RIGHT, CONTINGENT UPON CERTAIN FACTS, CONFERRED BY
THE TREATY.

THERE IS A NEED FOR THE DEVELOPMENT WITHIN THE
ANTARCTIC TREATY CONSULTATIVE SYSTEM OF AGREED PROCEDURES
FOR GIVING EFFECT TO THE RIGHT OF CONSULTATIVE STATUS IN
THE CASE OF CONTRACTING PARTIES NOT NAMED IN THE PREAMBLE.
THIS ISSUE REQUIRES RESOLUTION OF BOTH LEGAL AND PRACTICAL
QUESTIONS. ON ONE HAND, ATTAINMENT OF CONSULTATIVE STATUS
IS AN ISSUE OF TREATY INTERPRETATION IN WHICH ALL PARTIES
TO THE TREATY HAVE AN EQUAL VOICE. ON THE OTHER HAND,
RECOGNITION OF CONSULTATIVE STATUS FOR A CONTRACTING PARTY
SHOULD BE BASED UPON A CONSENSUS AMONG THE CONTRACTING
PARTIES ALREADY ENJOYING CONSULTATIVE STATUS IN ORDER TO
ASSURE A CONTINUATION OF THE COOPERATION THAT HAS BEEN
A HALLMARK OF THE TREATY SYSTEM.

THE PROCEDURES PROPOSED BY THE UNITED STATES ARE
DESIGNED TO PROVIDE PRACTICAL AND FLEXIBLE MEANS FOR
DEVELOPMENT OF A CONSENSUS RECOGNIZING THE RIGHT CONFERRED
BY ARTICLE IX(2) OF THE TREATY. IN THE U.S. VIEW,
FLEXIBILITY IS NECESSARY BOTH IN RECOGNITION OF THE VARIETY
OF MEANS CONSISTENT WITH THE TREATY THROUGH WHICH CONSEN-
SUS CAN BE ACHIEVED AND OF THE NEED FOR A PROCESS WHICH
WILL BE ADAPTABLE TO NEW SITUATIONS WHICH MAY ARISE IN THE
FUTURE. A SPECIAL CONSULTATIVE MEETING WOULD BE ONE,
BUT NOT THE ONLY, MEANS OF BRINGING ABOUT THE CONSENSUS
REFERRED TO IN THE U.S. PROPOSAL.

THE U.S. SUGGESTS THAT ITS PROPOSED PROCEDURES BE UNANIMOUSLY ADOPTED AND INCORPORATED IN THE FINAL REPORT OF THE JULY SPECIAL CONSULTATIVE MEETING. IT IS HOWEVER ALSO POSSIBLE TO ENVISAGE THEIR INCORPORATION INTO THE RULES OF PROCEDURE FOR CONSULTATIVE MEETINGS. END QUOTE.
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3. THE DEPARTMENT NOTES FROM REFTTEL THAT THE UK IS ATTEMPTING TO RECONCILE IN A "SINGLE NEGOTIATING TEXT" SEVERAL PROPOSALS ON THE SUBJECT SUBMITTED BY OTHER CONSULTATIVE PARTIES. THE U.S. PROPOSAL IS NOT, IN OUR VIEW, SUSCEPTIBLE OF BEING MERGED INTO THE "SNT" BECAUSE IT IS BASED ON A DIFFERENT AND MORE FLEXIBLE APPROACH TO THE ISSUE.

4. ACTION REQUESTED. EMBASSY SHOULD SHOW THE TEXTS IN PARAS 1 AND 2 TO THE FCO AND SOLICIT ITS VIEWS ON THE U.S. PROPOSAL AS SOON AS POSSIBLE, BUT BY JUNE 23.

5. WE CONTEMPLATE ASKING EMBASSY IN LATTER PART OF WEEK TO CIRCULATE U.S. PROPOSAL AND STATEMENT TO REPRESENTATIVES OF CONSULTATIVE PARTIES STATIONED IN LONDON SUFFICIENTLY IN ADVANCE OF JULY 6 MONTHLY MEETING TO PERMIT DISCUSSION AT THAT TIME. VANCE

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